

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Stephen J. Mordfin, AICP, Case Manager
 Joel Lawson, Associate Director Development Review
DATE: May 27, 2014
SUBJECT: BZA Case 18757, 1400 Pennsylvania Avenue, S.E.

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends **denial** of the following:

- § 733, Fast Food Restaurants in the C-2-A.

OP had been advised by the applicant that he would seek a postponement to resolve outstanding issues. As of the due date of this report nothing additional had been submitted by the applicant.

II. LOCATION AND SITE DESCRIPTION

Address	1400 Pennsylvania Avenue, S.E.
Legal Description	Square 1065 NE, Lot 19
Ward	6
Lot Characteristics	Pentagon-shaped corner lot with no alley access
Zoning	C-2-A: Medium density community business center
Existing Development	Two-story mixed-use commercial and residential building
Adjacent Properties	North: Row houses and flats South: Across Pennsylvania Avenue, commercial buildings, including a free-standing fast-food restaurant with a surface parking lot East: Row houses and commercial uses West: Across Potomac Avenue, row houses
Surrounding Neighborhood Character	Commercial and mixed-use buildings on Pennsylvania Avenue and moderate density residential development along the side streets

III. APPLICATION IN BRIEF

The applicant proposes to open a fast-food carry-out restaurant in an existing commercial space within a two-story mixed use residential and commercial building, constructed in 1900. Customers would access the restaurant at the front of the building, directly from Pennsylvania Avenue. A small indoor seating area for twelve would be provided. Refuse would be stored in a courtyard at the rear of the building, directly accessible from the kitchen. The courtyard has no direct access to either a street or an alley.

The application indicates that deliveries could be made across the street to 1401 Pennsylvania Avenue, a fast-food restaurant with surface parking also owned by the applicant, to avoid obstructing traffic when necessary.

The hours of operation were not submitted.

IV. ZONING REQUIREMENTS and REQUESTED RELIEF

C-2-A Zone	Regulation	Existing	Proposed	Relief
Height § 770	50 feet	28 feet	28 feet	None required
Floor Area Ratio § 771	1.5 max. (non-residential)	1.7	1.7	None required
Lot Occupancy § 772	100% max. (non-residential); 60% max residential	93%	93%	None required*
Rear Yard § 774	15-foot min.	13 feet	13 feet	None required*

*Existing nonconforming situation

V. OFFICE OF PLANNING ANALYSIS

a. Special Exception Relief pursuant to § 733, Fast Food Restaurants in C-2-A Districts

733.2 *No part of the lot on which the use is located shall be within twenty-five feet (25 ft.) of a Residence District unless separated therefrom by a street or alley.*

No part of the lot is within 25 feet of a residence district.

733.3 *If any lot line of the lot abuts an alley containing a zone district boundary line for a Residence District, a continuous brick wall at least six feet (6 ft.) high and twelve inches (12 in.) thick shall be constructed and maintained on the lot along the length of that lot line. The brick wall shall not be required in the case of a building that extends for the full width of its lot.*

Not applicable.

733.4 *Any refuse dumpsters shall be housed in a three (3) sided brick enclosure equal in height to the dumpster or six feet (6 ft.) high, whichever is greater. The entrance to the enclosure shall include an opaque gate. The entrance shall not face a Residence District.*

No dumpsters would be used. Instead, the applicant would place trash cans within the courtyard at the rear yard of the property, which does not face a residential district, and collected three to four times a week from the street. However, the application does not describe how the refuse would be transported to the street for collection, as there is no side yard or alley providing access to a street.

733.5 The use shall not include a drive-through.

No drive-through is proposed.

733.6 *There shall be no customer entrance in the side or rear of a building that faces a street or alley containing a zone district boundary line for a Residence District.*

The only customer entrance proposed would be from the front, facing Pennsylvania Avenue.

733.7 *The use shall be designed and operated so as not to become objectionable to neighboring properties because of noise, sounds, odors, lights, hours of operation, or other conditions.*

The application indicates that a ventilation system would be installed to control odors, but does not indicate how odors would be ventilated from the kitchen so as not to become objectionable to neighboring properties. The application did not provide the hours of operation.

733.8 *The use shall provide sufficient off-street parking, but not less than that required by § 2101.1, to accommodate the needs of patrons and employees.*

No off-street parking is required as the building contains less than 3,000 square feet in area.

733.9 *The use shall be located and designed so as to create no dangerous or other objectionable traffic conditions.*

The proposed use should not create any dangerous or other objectionable traffic conditions. DDOT's only concern was about the possible use of public space for the storage of trash.

The applicant owns a pizza restaurant across Pennsylvania Avenue from the site, a freestanding building with a surface parking lot. The application indicates that should off-street parking or loading space be required for the proposed restaurant that this parking lot could be utilized. The application neither documents that there is surplus parking or loading as defined by the

Zoning Regulations available for this use, nor does it request the use of off-street parking pursuant to Section 708 of the Zoning Regulations.

- 733.10 There shall be adequate facilities to allow deliveries to be made and trash to be collected without obstructing public rights-of-way or unreasonably obstructing parking spaces, aisles, or driveways on the site.*

Although no loading spaces are required for this proposal, the application does propose to permit deliveries at a site under the same ownership as the subject property for deliveries when necessary. No details were provided concerning this proposal.

However, the applicant should supplement the application to include a description as to how trash would be collected from the site without obstructing the use of public space, including the public sidewalk, on the street side of the building.

- 733.11 The Board may impose conditions pertaining to design, screening, lighting, soundproofing, off-street parking spaces, signs, method and hours of trash collection, or any other matter necessary to protect adjacent or nearby property.*

The application indicates that refuse would be stored outside at the rear of the property, and that it would be collected three to four times per week from the street. The subject property does not have alley access, the rear yard is land locked and the application does not describe how the refuse would be brought to the street for collection. The Department of Health informed OP that once refuse has been taken out of a restaurant it may not be brought back into the building. The applicant should work with the Department of Health on the proposed method of refuse storage and collection, and DDOT on the use of public space for the storage of trash on collection days.

The applicant should also submit the proposed hours of operation to ensure that the hours would not adversely affect the neighborhood.

- 733.12 An applicant for special exception under this section may request the Board to modify the conditions enumerated in §§ 733.2 through 733.4; provided that the general purposes and intent of this section are complied with.*

No request has been made for modifications to the above specified conditions.

As described above, the Office of Planning does not find the subject application to be in conformance with Section 733 of the Zoning Regulations.

- b. Is the proposal in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps?**

The proposed use, a fast food restaurant, is consistent and compatible with the C-2-A zone and a low to moderate density commercial district. However, OP has raised issues that require resolution before a final determination can be made.

c. Would the proposal appear to tend to affect adversely, the use of neighboring property?

The application does not include an adequate method for refuse disposal, the hours of operation or a description of how and to where the kitchen would be ventilated, or how loading would function when deliveries would be made across the street at 1401 Pennsylvania Avenue, SE. Therefore, the Office of Planning is unable to determine if the proposal would adversely affect the use of neighboring property.

VI. COMMENTS OF OTHER DISTRICT AGENCIES

DDOT, in an email to the Office of Planning dated May 9, 2014, indicated that it needed additional information regarding trash collection and the possible use of public space on collection days.

The Department of Health informed the Office of Planning on May 21, 2014 that refuse taken out of a restaurant cannot be brought back into the building.

No comments were received from other agencies.

VII. COMMUNITY COMMENTS

ANC 6B was scheduled to review the subject application at its regularly scheduled meeting of May 13, 2014.

Attachment: Location Map

